

****Chapter 13: ETHICS, CODE OF**

[HISTORY: Adopted by the Town Board of the Town of Whitestown 7-16-1981 by L.L. No .. 1-1981 as part of the 1981 Code. Amendments noted where applicable.]

GENERAL REFERENCES Procurement policies - See Ch. 30.

ARTICLE I Intent

§ 13-1. Statement of legislative intent.

The Town Board of the Town of Whitestown recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this town as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the town's officers and employees as provided for herein.

§ 13-2. Standards in addition to other laws.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

ARTICLE II General Provisions

§ 13-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

TOWN - Any board, commission, district, councilor other agency, department or unit of the government of the Town of Whitestown.

TOWN EMPLOYEE - Any officer or employee of the Town of Whitestown, whether paid or unpaid, whether serving in a full-time, part-time or advisory capacity.

§ 13-4. Prohibited actions.

No municipal officer or employee shall:

A. Directly or indirectly, solicit any gift or accept or receive any gift having a value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which it could reasonably be inferred that the gift was

intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interests;

C. Receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee; or

D. Receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his or her municipality, whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

§ 13-5. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

§ 13-6. Standards of conduct.

A. No town employee shall accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

B. No town employee shall accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.

C. No town employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

D. No town employee shall engage in any transaction as representative or agent of the town with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

E. A town employee shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties or that he or she is affected by the kinship, rank, position or influence of any party or person.

F. Each town employee shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and that employee's private interest.

G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

H. No town employee employed on a full-time basis, nor any firm or association of which such employee is a member, nor corporation, a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the town in which such employee serves or is employed.

I. Each town employee shall, to the extent that he or she is cognizant thereof, disclose any interest he or she may have in legislation before the Town Board.

J. No town employee within two years after the termination of his or her service or employment with the town shall accept employment which will involve contracts with the town which can work to his or her special advantage by virtue of his or her prior contact or relationship with the town.

§ 13-7. Penalties; removal or suspension.

In addition to any penalty contained in any other provision of law, any such town employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.

ARTICLE III Board of Ethics

§ 13-8. Establishment of Board of Ethics

A Board of Ethics is hereby established, pursuant to Sec 808 of Article 18, and any amendments herein, to be composed of five (5) members who have a good reputation and a record of honorable community service to serve without compensation and a the terms set forth below.

A. Qualifications

- (i) No more than one (1) member of the Board of Ethics shall be an officer or employee of the Town of Whitestown.
- (ii) No Board of Ethics Member shall hold office in a political party, including a committeeperson, or be employed or act as a paid lobbyist or hold elective office in the Town served by the Board of Ethics. A Board of Ethics member may make campaign contributions but may not participate in any election.

- B. Appointments to the Board of Ethics shall conform to the following
- (i) The members of the Board of Ethics shall be appointed by the Town Board. Once appointed the Board of Ethics shall thereafter annually designate one of their members to serve as chairperson.
 - (ii) The members of the Board of Ethics shall be appointed annually no later than January 30th in accordance with the provisions of this section.
 - (iii) The terms of the current members of the Board of Ethics shall expire upon designation of the new Board members appointed in accordance with the provisions of this section.
 - (iv) The terms of office of appointed Board of Ethics members shall be three (3) years, and shall run from January 1st to December 31st, except that one of the members currently serving may be re-appointed to serve until December 31, 2008; and two (2) of the current members may be re-appointed to service until December 31, 2009 and two (2) members shall be appointed to serve until December 31, 2010.
 - (v) A Board of Ethics members shall serve until his or her successor has been appointed. If a vacancy occurs, it shall be filled, within sixty (60) days, for the unexpired portion of the term in the same manner as the original appointment.
 - (vi) A Board of Ethics member may be removed from office by the Town Board for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or conviction of a misdemeanor or felony after written notice and opportunity for such member to respond.
 - (vii) A quorum shall be three (3) members, and action shall be by a majority of the members present at a meeting where a quorum is present.

§ 13-9. Duties and Powers of the Board of Ethics

- (A) The Board of Ethics shall render advisory opinions to officers, employees of the Town of Whitestown with respect to Article 18 of the General Municipal Law and this Code of Ethics. Such advisory opinions shall be rendered pursuant to the written request of an individual officer, employee of the Town of Whitestown, the Supervisor or by resolutions of a majority of the Town Board.
- (B) The Town Clerk shall make available to all officers and employees copies of this chapter and, upon request, all applicable forms adopted by the Town Board and such state statutes which it believes may be of assistance to the officers and employees in complying with applicable ethics provisions.
- (C) Investigations:
 - (i) Investigations. Upon receipt of a sworn complaint by any person alleging a violation of this chapter or upon determining on its own initiative that a violation of this chapter may exist, the Board of Ethics shall have the authority to conduct any investigation necessary to carry out the provision of this chapter. In conducting any such investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

- (ii) Hearings; penalties. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law, the Board of Ethics may recommend in writing to the Town Board appropriate disciplinary action.
 - (iii) The Board of Ethics may only act with respect to officers, employees of the Town.
 - (iv) The Town Board shall receive the recommendation(s) of the Board of Ethics and may take such disciplinary action and impose such penalties as provided in this chapter. The Town Board may review the findings of fact and the record, if any, as shall be made available to it by the Ethics Board which shall remain confidential as provided herein.
 - (v) The Board of Ethics may refer any violation of any provision of this chapter to the Town Board
- (D) Generally, opinions of the Board are required in order to comply not only with the letter of the Code of Ethics, but also with the spirit of preventing violations of an acceptable code of conduct. All opinions of the Board of Ethics shall be published and available in the Town Clerk's office, with all references to names, addresses and other information that would constitute a breach of confidentiality removed therefrom. The Board shall at all times protect the confidentiality of all Town officials, officers, employees (or former employees) of the Town or any subdivision thereof requesting an opinion therefrom.
- (E) The Board of Ethics shall present an annual report of its activities to the Town Board at a public hearing.
- (F) The Board of Ethics shall have the powers and duties in connection with Disclosure of Interest Statements as set forth in this code.
- (G) The Board of Ethics shall have such other powers and duties as shall be provided by a pursuant to Article 18, and any amendments thereto, of the General Municipal Law of the State of New York, which is incorporated by reference herein.
- (H) Training and education. The Town Personnel Officer shall develop educational materials, an educational program on the provisions of this chapter and shall be required to provide annual training to all Town employees. The Town Personnel Officer shall file a copy of all such materials with the Town Clerk and make information concerning this chapter and the Code of Ethics available to the officers and employees of the Town, to the public, and to persons interested in doing business with the Town of Whitestown.

§ 13-10. Disclosure of Interest Statements required of officers and employees.

- (A) The Board of Ethics shall be the repository for completed annual Disclosure of Interest Statements. The Board of Ethics shall decide who is required to file a Disclosure of Interest Statement consistent with the purpose and intent of this code.

- (B) The Board of Ethics is hereby authorized pursuant to §811(1)(d) of the General Municipal Law to promulgate rules and regulations governing the filing of Disclosure of Interest Statements and transactional disclosure forms, as such forms are adopted by the Town Board, and to enforce such filing requirements.
- (C) The Board of Ethics is authorized to grant written exceptions with respect to complying with the timely filing of such Disclosure of Interest Statements upon the showing of undue hardship and to prescribe rules and regulations relating to such exceptions with respect to extensions and additional periods of time within which to file such financial statements, including the imposition of a time limitation upon such extensions.
- (D) The Board of Ethics shall notify the Town Board of the failure to timely receive an annual Disclosure of Interest Statements complying with this code.
- (E) Annual Disclosure of Interest Statements shall be filed by all of the following:
 - (1) Elected officials.
 - (2) Appointed officials (salaried or unsalaried) to Town offices or related agencies under the aegis of the Town.
 - (3) Managerial and supervisory personnel for both the Town and related agencies.
 - (4) All code compliance and enforcement personnel of the Town or related agencies.
 - (5) All employees having any personnel duty assignment authority.
 - (6) All employees with legal or financial duties of the Town or related duties.
 - (7) All information and data entry personnel
 - (8) All personnel having discretionary authority with property assessments.
 - (9) All personnel having authority in receipt of taxes.
 - (10) All personnel with discretionary authority related to the issuance of licenses, permits, and the receipt of fees.
- (F) If the Board of Ethics determines that an annual Disclosure of Interest Statement is deficient or reveals a possible or potential violation of this chapter, the Board of Ethics shall notify the person in writing of the deficiency or possible or potential violation, afford the individual a reasonable period to correct such deficiency and explain the penalties for failure to comply with this chapter.

§ 13-11 Filing of Disclosure of Interest Statement; review.

All officers and employees required to file a Disclosure of Interest Statements as provided for herein shall file such statement with the Board of Ethics of the Town of Whitestown on official forms as established by resolution of the Town Board on or before the 31st day of January of each year or within thirty (30) days after their election, or appointment to office (or related agency) in the Town of Whitestown, whichever shall occur first.

ARTICLE IV Administration

§ 13-12. Distribution of copies.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this Code, nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor the enforcement provisions hereof.

§ 13-14. Appropriation of moneys.

The Town Board may appropriate moneys from the general town fund for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of town moneys except within the appropriations provided herein.

**Revised 5/16/2007